GOVERNING INSTITUTE



# BOND ISSUANCE CHILLEMID-SIZED MUNICIPALITIES

A GOVERNING INSTITUTE HANDBOOK

2017

# CONTENTS

- New Bond Issuance: Why Issuers Are Investing Now
- Impact of the Financial Crisis
- Capital Investment Bouncing Back
- Issuing Bonds: Competitive vs. Negotiated Sales
- Should You Engage a Municipal Advisor?
- Should You Purchase Municipal Bond Insurance?
- How Will New Financial Regulations Affect Your Issuance?
- What Makes a Successful Bond Issue?







he municipal bond market has undergone some drastic changes over the past decade. The financial crisis that began in 2008 resulted in a significant slowdown of bond issuance as municipalities curtailed new capital projects and deferred maintenance and repair.

As the economy has recovered, so too have municipal finances. If your city is considering a new bond issue, you're not alone. Continued low interest rates and strong investor demand make it an especially good time to enter the market. Thomson Reuters reports that through October 2017, new-money municipal bond issuance is up 6.1 percent versus the first 10 months of 2016, and the trend has been accelerating. October's new-money issuance was up 22.5 percent from the prior year.

As you prepare, you'll face key decisions on how to issue new bonds. For example, should you engage a municipal advisor? Should you purchase municipal bond insurance? And how might recent financial regulations affect your issuance?

In the pages that follow, you'll find guidance in these and other critical areas with regard to new municipal bond issuance.

The guide takes an in-depth look at:

 How the municipal bond procurement process works



- Best practices for municipal bond issuance
- The role of municipal bond insurance in achieving efficient market access
- The regulatory outlook for the municipal bond market



early a decade ago, the Great Recession shook our nation to its economic and financial core. Virtually no segment of the U.S. economy was left untouched, including investment in public infrastructure.

Between 2001 and 2010, an average of \$276 billion a year in new money was raised via the issuance of municipal bonds, according to data provider Thomson Reuters. This number peaked in 2007 with \$336 billion in new money raised. However, the number plunged to just \$177 billion in 2011 and between 2011 and 2016, the average in new money raised annually dropped to \$191 billion.

According to the American Society of Civil Engineers, the United States faces an annual infrastructure funding shortfall of about \$100 billion. As the nation moves forward to address this, it is clear that municipal bonds are a

flexible, affordable tool with significant capacity to help meet those needs. Returning to the 2001-2010 annual average of \$276 billion in new money raised through the municipal bond market would represent a major step forward. The good news is that the amount of new money raised via the issuance of municipal bonds has increased in each of the last three years. However, it still remains far below the 2007 peak: \$223 billion in new money was raised via the issuance of municipal bonds in 2016, and the market is on pace for \$236 billion in 2017.

Given the depth and severity of the recession, government entities

have been cautious about moving forward with new issues. But 2016 and 2017 election activity shows the tide is starting to turn: Governments presented — and voters approved — the greatest volume of infrastructure bond elections in a decade.

"From our observations, municipal bond issuers are really picking up the pace of infrastructure spending and financing," says Bruce Kimmel, a senior municipal advisor with Ehlers, an independent municipal financial advisory company that serves public sector entities.

Kimmel places municipal bond issuers post-recession in two camps. The first camp believed the economy



According to the American Society of Civil Engineers, the United States faces an annual infrastructure funding shortfall of about \$100 billion.



### MUNICIPAL BONDS 101: THE PROCUREMENT PROCESS AND KEY PLAYERS

City and state governments issue municipal (or muni) bonds to finance multimillion-dollar capital improvement projects, such as buildings, roads, bridges and water treatment plants. The government entity is borrowing

money from investors with the promise of paying it back over time with interest.

Municipal bond investors consist of individuals and institutions. More than half of the approximately \$4 trillion in muni bonds currently in circulation are held by individual investors.

The main participants in the municipal bond procurement process are:

- **The government entity** The city or state government issuing the bond.
- Municipal bond investors Individuals or institutions who purchase municipal bonds.
- Municipal advisor An outside expert who helps municipalities manage the risks of accessing the public capital markets.
- Underwriter A "middleman" between the government entity and investors who actually sells bonds to investors.
- Bond counsel An attorney who reviews the transaction for compliance both with local law, to ensure it's an enforceable contract with the government, as well as federal tax law where appropriate, to make sure the interest on the bonds is federally tax exempt.
- Rating agency An independent company (e.g., Moody's, S&P Global Ratings, Fitch Ratings and Kroll Bond Rating Agency) that rates municipal bonds based on the likelihood the issuer will default, or fail to repay the bond.
- Credit enhancer A third party typically a bond insurance company or a bank — that agrees to make principal and interest payments if the issuer does not.

A municipal bond sale requires a two-step procurement process. First, the issuer needs to assemble the team of professionals who will bring the transaction to market. Then, that team will execute a second sale process to place the bonds with investors. The underwriter lines up investors for the bond issue (and occasionally buys bonds itself), earning a fee from the issuer (the "underwriting spread"). Once the underwriting process is complete, the city or state will receive the funds for the project and the underwriter will notify the paying agent for the bonds. The government agency will make principal and interest payments to the paying agent, who distributes payments to investors.

was slowly recovering but there was still uncertainty about their tax base and other fundamentals.

"They realized they had their core infrastructure projects that weren't going to get any cheaper to build or finance, so they needed to work on their capital improvement plans and get these things done," says Kimmel. "These issuers really started making strides again as early as 2011."

In the other camp were issuers that stayed out of the game for much longer. Even if the fundamentals all made sense — like the need for the project, the cost and attractive financing rates — they were still hesitant. And now many of these projects are overdue.

"Some of these issuers are now addressing their deferred capital needs, so it's better late than never," says Kimmel.





ew-money municipal bond issuance began to increase in late 2016 and early 2017 as interest rates began to rise and city leaders became concerned they would miss an opportunity.

"I think we're seeing some delayed projects now that are finally coming to the forefront," says Kimmel.

As tax revenues rebound, cities are also looking to address capital needs that were deferred during the financial crisis. Capital expenditures for infrastructure are usually tabled during a recession as municipalities shift their focus to providing essential services to citizens. Bond issuance is one way to help address this need.

"Now we're seeing infrastructure upgrades, expansion and renewal coming back onto the agenda, and the municipal bond market is financing these increased capital expenditures," says Scott Richbourg, head of public finance for Build America Mutual.

Michael Stanton, the head of strategy and communications for Build America Mutual, points out that spending on infrastructure was a major point of emphasis for both presidential candidates in the 2016 election.

"This wasn't a coincidence — they were both responding to the deferred maintenance backlog that has built up in recent years. I think everyone, from city managers and mayors to citizens, recognizes that our infrastructure could use a big facelift,

and issuing new municipal bonds is an effective way to accomplish this."

Michael Ogburn, senior vice president of public finance with California Financial Services, is a municipal advisor who focuses primarily on public school districts in California. He says the school districts he works with have been active lately in executing insured municipal bond transactions to finance both the improvement of old schools and to construct new school facilities needed to accommodate growth.

"As a practical matter, school districts are in the municipal bond market when they have capital needs," says Ogburn. "The low interest rate environment has something to do with the timing, but school districts would be in the marketplace anyway, regardless of interest rates, to meet their school facilities' needs."

Projects to modernize existing schools and build new schools are primarily funded through general obligation bond elections. According to Ogburn, more than 200 California school districts had general obligation bond elections in November 2016, and almost 90 percent of them passed, for over \$25 billion in bond authorization. In addition, another \$7.6 billion in state matching grants was approved in the November 2016 election for school districts with eligible school modernization and new construction projects.

"Now we're seeing infrastructure upgrades, expansion and renewal coming back onto the agenda, and the municipal bond market is financing these increased capital expenditures."

Scott Richbourg, Head of Public Finance, Build America Mutual



here are two models for issuing municipal bonds: competitive bond sales and negotiated bond sales. There are pros and cons with each model, so choosing the right one depends on the specific circumstances faced by each municipality.

competitive sales. With a competitive sale, the government entity sets the terms of the sale — such as how much money to borrow and what revenues will be pledged for repayment — and accepts bids from underwriters in an auction. The underwriter who offers the lowest cost of capital is then selected to issue the bonds. Competitive sales are typically used for standardized transactions from well-known issuers where the underwriter has strong confidence it will be able to re-sell the bonds quickly.

Kimmel says the vast majority of municipalities he's working with now are bringing new bond issues to the market via competitive offerings.

"The culture of competitive bids is pretty strong here in the Midwest and we're seeing really robust bidding from underwriting firms," he says. "We have historical data that shows that in most situations, a competitive sale of a general obligation bond is going to get you the best result as opposed to negotiating with just one underwriter."

Kimmel is also seeing quite a few banks interested in buying municipal offerings directly for their own portfolios. "So between this and the public offering route, we're certainly not seeing any shortage of interest in buying municipal offerings."

The par amount of the bond issue, the credit rating and how frequently the government entity goes to the public market can also be big influences on the decision.

"Competitive sales tend to make more sense with higher-rated credits, larger deal sizes and issuers who are more frequently in the market," says Kurt Freund, managing director of RBC Capital Markets. "In this scenario, you often will get a broader field of bids."

NEGOTIATED SALES. With a negotiated sale, the underwriter is selected and the terms of sale are negotiated in advance. A negotiated sale is usually accomplished via a team of underwriters referred to as an underwriting syndicate.

The California school districts
Ogburn works with are issuing
negotiated bonds almost exclusively.
"With today's technology, the advantages
of a competitive sale can also be realized
with a negotiated sale, and there's
much more flexibility in tailoring the
financing structure. Competitive sales,
in our judgment, are mostly limited to
very large, well-known bond issuers
with simple structures," he says.

### **TIPS FOR SUCCESS**

According to Thomson Reuters, approximately 40 percent of bond transactions are sold via a competitive sale process, but more than 75 percent of the par value of bonds sold are issued under a



negotiated sale process, since those transactions tend to be larger.

Choosing the right underwriter can make or break a municipal bond offering. Therefore, it's critical to choose an underwriter who has the kind of trading and investor base that lends itself to the type of security you're issuing.

"Depending on the size of the offering, we sometimes use more than one underwriter to increase the potential investor base," says Ogburn.

Kimmel stresses to municipalities he works with that while the underwriter is an integral member of the bond issuance team, the underwriter is not working for them.

"There's an inherent conflict of interest between the issuer and the underwriter," he explains. "Underwriters want to secure the highest reasonable interest rate for the bond because that's where they make money, while issuers want to pay the lowest possible interest rate. Therefore, we usually encourage issuers to interview several different underwriters before choosing one."

There are three main types of municipal bonds used to raise capital for state and local government investments. They are differentiated mainly by the types of revenue used to repay the bond:

- 1 General Obligation (or GO) Bonds These are backed by the "full faith and credit" or the taxing power of the government entity issuing the bond. In other words, the entity can use whatever revenues are at its disposal, such as property taxes, sales taxes and fees, to repay the debt, and often include an "unlimited tax" pledge, which commits the government to raising taxes to whatever rate is necessary to repay the debt. GO bonds, which may require voter approval, are used to fund such public projects as schools, roads and municipal buildings. GOs have historically been viewed as the most creditworthy bonds in the market.
- Revenue Bonds These are repaid from funds generated by a specific revenue source (i.e., water or sewer utility revenues). Some investors prefer this type of debt particularly when the project financed provides an essential public service. "Dedicated-tax" bonds are a subset of revenue bonds, where the government pledges proceeds from a specific tax (i.e., sales tax or gas tax), in place of revenues from operations. In many cases, investors say revenue bonds offer additional protection from the risk of a municipal bankruptcy.
- 3 "General Fund" Bonds This category covers a wide range of debt structures (including lease-revenue bonds, certificates of participation and appropriation-backed debt) in which the debt service has to be included in the issuing government's budget and voted on each year. Because these bonds are part of the political process and are not backed by a specific revenue stream, investors generally consider them less secure than G0 bonds backed by an unlimited tax pledge, and issuers may have to pay a higher interest rate.



n preparing to issue municipal bonds, jurisdictions must decide whether to engage an independent municipal advisor. There are several advantages to doing so, but perhaps the biggest is the fact that a municipal advisor is the only party in the bond issuance process who has a fiduciary duty to act in the best interest of the issuer. According to Thomson Reuters, so far in 2017 85 percent of municipal bond transactions are sold with a municipal advisor, a level that has been trending upward in recent years.

"We have always believed it was our fiduciary duty to act in the issuer's best interests, but now this is codified in law," says Kimmel. "We take this responsibility very seriously because there's really nobody else sitting on the issuer's side of the table. Just having us in the room tends to add value for issuers."

A municipal advisor will market your bond to investment bankers and underwriters by getting the word out and helping you put your best foot forward with the rating agencies. The advisor will tell your story and help make your bond issue more competitive.

To derive the most value, issuers should be careful to choose a highly experienced municipal advisor who specializes in their specific type of offering. If you engage an experienced municipal advisor with proven credentials

who charges a reasonable fee, this can definitely add value especially for small and mid-sized issuers who are less experienced in municipal bond offerings.

Ogburn points out that municipal advisors tend to specialize in working with specific types of municipal entities more than underwriters do. This enables them to better understand the issuer's objectives and the funding tools available to meet them. The advisor helps the issuer develop both the financing structure and issuance strategy for the offering, and then assembles a team that's best equipped to implement this strategy.

## TIPS FOR SUCCESS IN UNDERWRITER SELECTION

When it comes to choosing an underwriter, engaging a firm that has demonstrated strong distribution capabilities and is well-established in the marketplace is also recommended. Such a firm will leverage its investor-client network to help with successful investor outreach.

The underwriter can help develop effective presentation materials that outline the community's economy

and finances, as well as the details of the bond financing they're doing.

"The key is choosing an underwriting firm that has a sales force and an investor network that a small or mid-sized issuer can leverage," says Freund.

Some municipalities are realizing the importance of investor outreach and implementing investor relations programs similar to those in large corporations. This is becoming more common as some hedge funds and mutual funds are starting to trade municipal bonds more actively like they do stocks.

"They demand a lot more information, so some issuers are holding quarterly conference calls and even going out on the road to talk to investors," says Stanton.

Right now, though, Kimmel says he doesn't see a whole lot of direct investor outreach like this among small to mid-sized municipal bond issuers.

"There's just not that much need for it," he says. "The market is liquid enough and competitive enough that for most of our clients, it doesn't make sense for them to fly out and meet with prospective investors like Los Angeles or New York might."

"We have always believed it was our fiduciary duty to act in the issuer's best interests, but now this is codified in law. We take this responsibility very seriously."

Bruce Kimmel, Senior Municipal Advisor, Ehlers





nother important decision municipalities must make is whether to purchase municipal bond insurance. This protects investors against the risk of default on the part of the bond issuer. The active bond insurers in today's market are rated AA by S&P Global Ratings, and the bonds they insure carry that rating. Issuers with lower ratings who purchase bond insurance will see their bond ratings get an upgrade.

It's important to remember that default doesn't just occur when municipalities go bankrupt, like what has happened in such high-profile incidences as Detroit, Mich.; Jefferson County, Ala.; and Stockton, Calif. Bond insurance is an unconditional, irrevocable guarantee of timely payment of interest and principal, so investors are protected from any potential interruptions in payments — even when an issuer simply fails to deliver the payment on time.

To make the right bond insurance decision, you need to do a cost-benefit analysis. Buying insurance can improve an issuer's credit rating and reduce the interest rate on the bonds because investors are protected against default risk. So if the insurance premium — typically quoted as a percentage of total debt service on the bonds — is less than the total debt service savings gained by utilizing insurance, then issuers that purchase the insurance come out ahead.

"I think using bond insurance can be a critical element for small to mid-sized and less-frequent issuers as it often gives investors a higher level of comfort," says Freund. "I would always take a close look at bond insurance if I were this kind of issuer."

Also, the more complex the transaction, the more value an issuer will usually receive by purchasing bond insurance because it makes the offering easier to understand for investors who may not be as sophisticated.

"If a bond rating is in the A range or lower, bond insurance definitely adds value," says Ogburn.

Underwriters typically perform a cost-benefit analysis to determine if buying bond insurance is beneficial for an issuer. Municipal advisors and issuers themselves often double-check to make sure the cost-benefit comparisons incorporate the planned parameters and the analyses are reasonable.

Bond insurance cost-benefit calculations should also consider the entire "lifetime cost" of the insurance policy. In the majority of cases, issuers pay a premium upfront to cover the entire life of their transactions. However, most municipal bond issues, like home mortgages, are refinanced to take advantage of lower interest rates.

Issuers who analyze the lifetime cost of their bond issues may find it attractive to take advantage of

Research has found that buying bond insurance lowers overall borrowing costs, even after factoring in the insurance premium, thus adding value to the issuer.

# WHAT ARE BOND CREDIT RATINGS — AND SHOULD YOU OBTAIN ONE?

One of the key decisions government entities must make when issuing municipal bonds is whether obtaining one or more bond credit ratings will enhance the marketability of their issue and reduce the interest cost they will pay.



There are four active rating agencies that provide credit ratings on muni bonds that are designed to measure likelihood of default and, in some cases, the potential for investors to recover their losses after a default: S&P Global Ratings, Moody's Investors Service, Fitch Ratings and Kroll Bond Rating Agency. Broadly, ratings are considered "investment grade" or "speculative grade" — the vast majority of muni bond ratings are investment grade.

S&P, Fitch and Kroll use a scale that maxes out at AAA. The lowest investment-grade rating is BBB-minus. Between those poles, bonds can earn ratings of AA-plus, AA, AA-minus, A-plus, A, A-minus, BBB-plus and BBB.

Moody's scale is similar, but is written differently. The top rating is Aaa, and the lowest investment-grade rating is Baa3. Other ratings include: Aa1, Aa2, Aa3, A1, A2, A3, Baa1 and Baa2.

Each of the rating agencies uses its own criteria when issuing bond ratings, but all four look closely at three factors in particular:

- **1** The stability of the issuer's revenue stream The more robust and predictable the revenue stream that will be used to repay the bond, the higher the bond rating will usually be. For example, property taxes are usually a more reliable revenue stream than revenue from more speculative projects (e.g., convention centers).
- **The demographics of the jurisdiction** Bonds issued by municipalities with growing populations and wealthy residents usually earn better ratings than bonds issued by municipalities with stagnant populations and less-affluent residents.
- The issuer's financial management and governance practices The rating agencies like to see that issuers produce their financial reports on time, maintain an emergency reserve fund, manage cash flows effectively, have a clear capital budgeting plan and have policies to prepare for financial contingencies.

Improving your bond's credit rating by even one notch can potentially save hundreds of thousands of dollars in borrowing costs. However, the decision to obtain one or more bond ratings isn't always a no-brainer. There's a cost involved in obtaining a bond rating, so the decision usually comes down to a cost-benefit analysis: Will the potential savings in borrowing costs outweigh the cost of obtaining the rating?

Also, if you're a small or mid-sized issuer, having an attractive bond rating could open up doors to potential investors that might otherwise remain closed. This is because some investors, including many of the mutual funds that hold approximately 25 percent of all outstanding municipal bonds, only consider buying bonds with a minimum rating from one of the primary rating agencies.

alternative pricing structures offered by Build America Mutual. In one scenario, the issuer can pay an upfront premium that covers only the first 10 years of the transaction, with additional payments due annually thereafter. If the bonds are refunded, no additional premium is due. Alternatively, for transactions where the full premium is paid upfront, Build America Mutual can allow its issuers to reapply a portion of their initial upfront premium as a credit against the cost of insurance for a future refunding bond issue.

Recognition of the benefits of bond insurance is starting to spread throughout the municipal bond marketplace.

"We have seen a big movement of retail buyers back to using bond insurance to protect their municipal bond holdings," says Richbourg. "And in the last six to 12 months we've seen much more activity with the larger, more sophisticated institutional investors as well. They have placed more value in the protections of bond insurance."

A significant amount of research has been done on the economics and ROI of buying municipal bond insurance. The general finding is that buying bond insurance lowers overall borrowing costs, even after factoring in the insurance premium, thus adding value to the issuer.

Stanton points out that not only does the issuer get better rates due to default protection for investors, but buying insurance commoditizes bonds and increases their liquidity.

"This is especially important to smaller municipalities that don't have a lot of name recognition, because it helps broaden the base of potential investors," he says.



ot surprisingly, the regulatory environment for municipal bond issuance has gotten considerably stricter since the financial crisis and passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Municipal bond issuers today are subject to stringent federal regulations when it comes to their financial statements. The post-transaction disclosure obligations are also quite extensive.

In particular, regulators have come out much more forcefully against false, misleading or incomplete offering documents. Continuing disclosure undertaking requirements and responsibilities have always been there for issuers, but they have been ramped up considerably. Regulators are also paying especially close attention to material event notices.

"There's a very short window for filing these, and we've seen the U.S. Securities and Exchange Commission (SEC) make findings against issuers and underwriters for missing material events," says Kimmel.

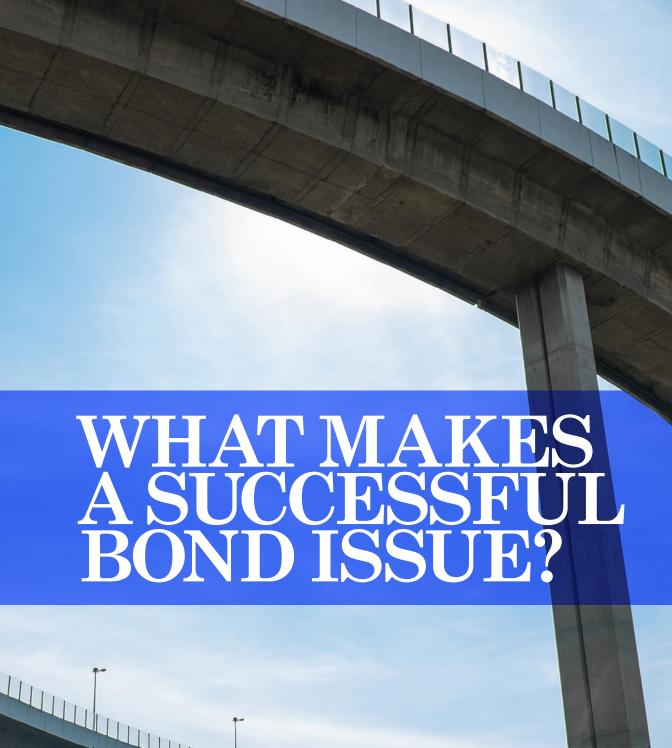
In addition, the Municipalities Continuing Disclosure Cooperation (MCDC) Initiative has brought a lot of awareness. This initiative allowed both issuers and their underwriters to self-report failures to comply with their continuing disclosure undertakings in exchange for more lenient penalties than the SEC would impose in cases where it discovered a lapse on its own. The program was intended to address potentially widespread violations of federal securities laws by municipal issuers and underwriters in connection with certain representations about continuing disclosures in their bond offering documents.

The MCDC increased compliance with continuing disclosure requirements. Many municipalities have had to turn to consultants for help to comply because of the complexity of the requirements and the volume of historical data that needs to be reviewed. However, this hasn't affected

the ability of issuers to raise money.

Most issuers weren't affected by the initiative, but it raised awareness and due diligence among issuers in terms of making sure all their continuing disclosure obligations are being met — and among underwriters, who will decline to bid on bond issues from issuers when they are not confident their obligations are satisfied.

Kimmel says that many issuers are trying to make it easier for the investment community to find their financial documents. For example, issuers are putting an investor relations or city financials tab on their homepage so analysts can readily locate current and complete financials. Insured bonds from Build America Mutual are also accompanied with a "BAM Credit Profile," a three-page, easy-to-digest summary of key financial data that investors can use to learn about an issuer's finances and monitor them over time. BAM's surveillance staff updates the Credit Profiles using publicly available data annually.







ue to the pent-up demand caused by years of delays in new capital projects and deferred maintenance and repairs, and a recovering economy, the time is ripe for new municipal bond issues. But what would define a successful muni bond issue?

In general, a successful bond issue helps municipalities meet their investment and debt-service cost objectives, is completed on time and obtains the lowest cost of capital. The best way to accomplish this is by having a high degree of transparency.

"In my experience, small and mid-sized issuers routinely achieve this result. But they have to do their homework on the front end to engage experienced and knowledgeable professionals," says Freund.

A successful bond issue is also about achieving the structural objectives of the financing initiative. This means getting the financing in place in a way that works for the community's needs so they get the money for the project when they need it and the payment terms and timing meet their longer-term objectives.

# A successful bond issue helps municipalities meet their investment and debt-service cost objectives, is completed on time and obtains the lowest cost of capital.

"One of the most gratifying aspects of my job is that I get to help small and mid-sized issuers understand their capacity to access capital markets and obtain financial solutions for their specific needs," Kimmel adds. "Sometimes it's a matter of informing them that they actually have more options than they thought in terms of structuring a deal or getting strong bids."

Kimmel concludes: "Even though there are regulatory and statutory issues that need to be addressed, issuers should feel good about their public financing options in the current environment."

This piece was developed and written by the Governing Institute Content Studio, with information and input from Build America Mutual.

Produced by:



The Governing Institute advances better government by focusing on improved outcomes through research, decision support and executive education to help public-sector leaders govern more effectively. With an emphasis on state and local government performance, innovation, leadership and citizen engagement, the Institute oversees Governing's research efforts, the *Governing* Public Official of the Year Program, and a wide range of events to further advance the goals of good governance.

### www.governing.com

For:



Build America Mutual has guaranteed more than \$40 billion of municipal bonds for more than 2,700 communities across the United States. BAM's AA/Stable credit rating helps issuers improve the credit quality of their municipal bond sales and reduce their interest costs. BAM insurance makes U.S. infrastructure more affordable and municipal bond investments safer.

For more information, visit www.buildamerica.com or contact CreditInsights@buildamerica.com.

The material in this handbook is written for issuers of municipal bonds but is not intended to provide legal or financial advice. Issuers should consult with qualified legal counsel, registered broker-dealers, or municipal advisors to learn more about the subjects covered in these pages.